

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSITAS EDUCATION, LLC,

Petitioner,

-v-

No. 11-CV-1590-LTS

NOVA GROUP, INC.,

Respondent.

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ORDER

Pending before the Court is Petitioner Universitas Education, LLC's Motion for the Imposition of Rule 11 Sanctions Against Roger Stavis, Esq. and Mintz & Gold LLP (docket entry no. 707), filed on March 23, 2021.

Universitas's Motion for Sanctions asks the Court to impose sanctions on Mr. Stavis and his firm in response to their representation of Grist Mill Capital, LLC ("Grist Mill"), in connection with Grist Mill's motion to vacate, filed pursuant to Federal Rule of Civil Procedure 60(b), a Turnover Judgment issued by this Court in August 2014. (See docket entry nos. 474, 475.) The Court denied that motion to vacate in a Memorandum Opinion and Order dated September 28, 2021. (Docket entry no. 722.) Through separate counsel,¹ Grist Mill filed an appeal of that Memorandum Opinion and Order (docket entry no. 725), which remains pending.

Though in some circumstances "a district court maintains jurisdiction to entertain a motion for Rule 11 sanctions even after the filing of a notice of appeal," In re NASDAQ Mkt.-

¹ Mintz & Gold LLP withdrew as counsel for Grist Mill effective June 2, 2021. (Docket entry no. 721.)

Makers Antitrust Litig., 187 F.R.D. 124, 129 (S.D.N.Y. 1999), the Court concludes in this case that, in light of Grist Mill’s pending appeal of the Court’s resolution of the Rule 60(b) motion from which Universitas’s motion for sanctions arises, “the most prudent course of action is to defer considering the Rule 11 motion,” since “[t]he Second Circuit’s review may supply insight into the propriety of the Rule 60(b) motion.” Kroemer v. Tantillo, No. 1:17-CV-67, 2018 WL 9945990, at *5 (W.D.N.Y. Mar. 14, 2018), aff’d, 758 F. App’x 84 (2d Cir. 2018). See also Jackson v. Cronin, No. 2:11-CV-00058-WCO, 2013 WL 12091693, at *9 (N.D. Ga. Jan. 24, 2013) (finding it “prudent to defer further consideration of defendants’ Rule 11 motion until the Eleventh Circuit has had the opportunity to evaluate plaintiff’s arguments on appeal”). The Court therefore defers resolution of Universitas’s pending motion for sanctions until the Second Circuit has resolved Grist Mill’s pending appeal.

Universitas is directed to file a status letter, within fifteen days of the Second Circuit’s mandate resolving Grist Mill’s pending appeal, advising the Court as to what bearing, if any, the Second Circuit’s resolution of that appeal has on Universitas’s pending motion for sanctions.

SO ORDERED.

Dated: New York, New York
January 20, 2022

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge